Law Offices of
JENNINGS & JENKS
3435 American River Drive, Suite C
Sacramento, California 95825
Telephone: (916) 482-4910

Attorneys for Petitioner
ROBERT LEE GRAY

IN THE UNITED STATES DISTRICT COURT FOR THE

EASTERN DISTRICT OF CALIFORNIA

ROBERT LEE GRAY, Petitioner, vs. THE UNITED STATES OF AMERICA, Respondent.	No. Cr. S-78-9-TJM AFFIDAVIT OF ROBERT LEE GRAY IN SUPPORT OF MOTION TO VACATE CONVICTION

On December 15, 1977, after I was arrested for Marie Patzig's controlled substance, I recieved (sic) a phone call immediately after arriving in the South Tahoe City jail, from a Mr. James McCabe. A person I have never heard of or met before. He said, Marie's friend, Pat Delgadillo had called the house in Tahoe, that I had just moved into with an existing renter, and had heard of my arrest. Mr. James McCabe was Marie Patzig's friend and said that he would remain in San Diego for the weekend and then he would fly up to Tahoe and get me out. Luckily Roger Malin bailed me out. Marie was in jail after spending the night in the house in Tahoe with the DEA agents. They found the full contents of cocaine in her traveling bag and further amounts were found in her wallet. Marie flew to San Diego after explaining to me that James McCabe had been her "friend" for two years and that he could work won-

ders in situations like this. She would call me after she spoke to James McCabe. Several days later, she called me and gave me a date to see McCabe. After arriving in San Diego, Marie Patzig took me over to McCabe's office. Pat Delgadillo was there also. McCabe met me and asked me to wait outside of the office while he heard their story first. After 20 minutes he called me in to hear my story of what happened. After telling me that both Pat and Marie told him they brought the substance to Tahoe and that I had no knowledge of it, McCabe wanted to hear what I had to say. Marie and Pat stayed in the office. McCabe said the agents had found 12800^{00} (sic) in a bag and that because I lived in the house that I had to sign with Marie for the money to be given to McCabe for the ensuing legal fees. I said I hadn't even heard of the money until just then. He said if I didn't sign that the government would just

keep the money. I looked at Marie and she said that I should sign it in order to retain McCabe. So I did. McCabe then said that he would be representing both of us and it shouldn't take long to get the case dropped. McCabe said for me to go back to Tahoe and relax he would take care of everything. About a week later Marie called me and happily exclaimed that they had dropped the case against her. I said why? And she got real upset that I wasn't happy for her. I wanted to know why, when the cocaine was hers, it was in all her possessions and both she and James McCabe knew that. After I realized McCabe was not representing me but just Marie, I got another attorney. James McCabe lied to me just as he lied to the District Attorney. No matter how long it takes I will see McCabe disbarred.

/s/ Robert Gray

ROBERT LEE GRAY,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

ASSOCIATION OF ATTORNEY AND ENTRY OF APPEARANCE

CARL M. STEIN, a member of the Bar of the State of California and the United States Supreme Court hereby acknowledges his association with the Law Offices of Jennings & Jenks, for the purpose of filing, briefing and arguing this Writ of Certiorari and subsequent matters and does make this document an entry of appearance for all purposes.

CARL M. STEIN

I hereby consent to the herein association and entry.

JENNINGS & JENKS

By: MARTIN F. JENNINGS, JR.